

PUBLIC SERVICE COMMISSION OF WISCONSIN

Petition to Open a Rulemaking Docket to Consider Amending Wis.
Admin. Code ch. PSC 119 and Wis. Admin. Code § PSC 113.10
Related to Distributed Resources Interconnection Rules

5-GF-233

ORDER

This is the Order in the Commission's review of the petition by RENEW Wisconsin (RENEW) to open a rulemaking docket to consider amending Wis. Admin. Code ch. PSC 119 and Wis. Admin. Code § PSC 113.10 related to distributed resources interconnection rules.

On February 22, 2013, RENEW filed a petition with the Commission requesting that the Commission consider a rulemaking to amend Wis. Admin. Code ch. PSC 119 and Wis. Admin. Code § PSC 113.10 to modify certain provisions of the Commission's rules relating to interconnecting distributed resources. ([PSC REF#s: 181262](#), [181263](#), [181264](#).) The Commission considered RENEW's petition at its open meeting of April 17, 2013, and determined that it needed additional input from stakeholders regarding whether a rulemaking docket should be opened and, if so, what changes should be considered. On May 16, 2013, the Commission issued a Notice of Investigation seeking comments to gather this information. The Commission received comments from electric providers, advocacy and other interest groups, and members of the public.

At its open meeting of October 10, 2013, the Commission considered the petition and the comments received in response to its request for information. The Commission concludes that changes to the interconnection rules are not needed at this time and therefore declines to open the requested rulemaking. The Commission finds that the interconnection rules are adequate to

address the current scope of interconnection requests. RENEW contends that certain pieces of the rules impose outdated, costly requirements that inhibit otherwise viable distributed generation projects. The Commission disagrees, noting that the utilities process interconnection requests in a timely manner, and that while the number of interconnection requests appears to have declined overall in recent years, it is not clear the interconnection rules are the cause of any decline. In support of its contention that certain portions of the rules add costs and make projects uneconomical, RENEW only makes general statements and fails to cite any specific projects which have been derailed because of the interconnection rules, and therefore has not demonstrated a compelling need for a change in the rules at this time.

The larger challenge with distributed generation is not one of interconnection, but of economics. Current tariffs may need to be re-examined to ensure distributed generation buyback rates fairly reflect costs and benefits associated with distributed generation, and to ensure that utility rate structures appropriately recover the costs associated with providing utility service to customers with distributed generation. RENEW raises questions about the interconnection rules that may be appropriate for the Commission to revisit in the future, but which are not necessary or appropriate to consider before the rate design issues are addressed. The proposed rulemaking would not address these more fundamental and significant policy and economic issues. Rulemaking is just one tool the Commission has to address distributed generation. The Commission finds that it is reasonable and more impactful to address these economic and policy issues in a broader context and as part of the utilities' next rate cases. Further, to the extent there are some administrative fixes that could better streamline the interconnection application

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process, such as an electronic application filing process, Commission staff can facilitate such changes without a formal rulemaking.

The request to open a rulemaking to consider amending Wis. Admin. Code ch. PSC 119 and Wis. Admin. Code § PSC 113.10 related to distributed resources interconnection rules is denied.

Jurisdiction is retained.

Commissioner Callisto dissents and writes separately (see attached).

Dated at Madison, Wisconsin, this 13th day of November, 2013.

By the Commission:

A handwritten signature in black ink, appearing to read "Sandra J. Paske", written in a cursive style.

Sandra J. Paske
Secretary to the Commission

SJP:DEE:jlt:DL: 00884524

See attached Notice of Rights

PUBLIC SERVICE COMMISSION OF WISCONSIN
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**NOTICE OF RIGHTS FOR REHEARING OR JUDICIAL REVIEW, THE
TIMES ALLOWED FOR EACH, AND THE IDENTIFICATION OF THE
PARTY TO BE NAMED AS RESPONDENT**

The following notice is served on you as part of the Commission's written decision. This general notice is for the purpose of ensuring compliance with Wis. Stat. § 227.48(2), and does not constitute a conclusion or admission that any particular party or person is necessarily aggrieved or that any particular decision or order is final or judicially reviewable.

PETITION FOR REHEARING

If this decision is an order following a contested case proceeding as defined in Wis. Stat. § 227.01(3), a person aggrieved by the decision has a right to petition the Commission for rehearing within 20 days of the date of service of this decision, as provided in Wis. Stat. § 227.49. The date of service is shown on the first page. If there is no date on the first page, the date of service is shown immediately above the signature line. The petition for rehearing must be filed with the Public Service Commission of Wisconsin and served on the parties. An appeal of this decision may also be taken directly to circuit court through the filing of a petition for judicial review. It is not necessary to first petition for rehearing.

PETITION FOR JUDICIAL REVIEW

A person aggrieved by this decision has a right to petition for judicial review as provided in Wis. Stat. § 227.53. In a contested case, the petition must be filed in circuit court and served upon the Public Service Commission of Wisconsin within 30 days of the date of service of this decision if there has been no petition for rehearing. If a timely petition for rehearing has been filed, the petition for judicial review must be filed within 30 days of the date of service of the order finally disposing of the petition for rehearing, or within 30 days after the final disposition of the petition for rehearing by operation of law pursuant to Wis. Stat. § 227.49(5), whichever is sooner. If an *untimely* petition for rehearing is filed, the 30-day period to petition for judicial review commences the date the Commission serves its original decision.¹ The Public Service Commission of Wisconsin must be named as respondent in the petition for judicial review.

If this decision is an order denying rehearing, a person aggrieved who wishes to appeal must seek judicial review rather than rehearing. A second petition for rehearing is not permitted.

Revised: March 27, 2013

¹ See *State v. Currier*, 2006 WI App 12, 288 Wis. 2d 693, 709 N.W.2d 520.

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DISSENT OF COMMISSIONER ERIC CALLISTO

I dissent from the Commission's order denying the petition to open a rulemaking. I would have supported a limited rulemaking to amend certain portions of our interconnection rules for distributed generation (DG) resources. Our current DG interconnection rules are a decade old, and the petitioners convincingly demonstrated that certain pieces of the rules are out of date and, in some cases, include unnecessary and costly requirements that serve as a barrier for otherwise viable DG projects.¹ Specifically, I was willing to look at rule modifications relating to: (1) external disconnect switch requirements, (2) communications links, (3) insurance coverage, (4) clarifying how to treat cost contributions for line extensions, and (5) the definition of DG size categories. I think we could have come to some common sense changes that would better reflect the current DG environment and be fairer and more workable for DG businesses, without harming utilities, jeopardizing safety, or otherwise affecting non-participating ratepayers.

For utilities and their regulators – regionally and nationally – few if any policy issues garner more attention right now than DG expansion and increasing customer interest in DG options. Yet in disposing of the petition, the Commission summarily concludes that looking at the DG interconnection rules is “not needed at this time” and that it would be “more impactful”

¹ For example, according to Commission staff, at least two DG biogas projects have been stalled because of disparate utility requirements on communications link equipment.

to consider the broader economic and policy issues associated with DG in utility rate cases.² The Commission ignores that there was a broad and diverse group of stakeholders that supported a rulemaking on DG interconnection. Joining RENEW Wisconsin in the petition were, among others, the Secretary of the Wisconsin Department of Agriculture, Trade and Consumer Protection, solar developers, the Citizens Utility Board, various counties and municipalities, and the Wisconsin Farmers Union. I have no reason to doubt that the common interest of those groups will persist and that others will likely join them. We shouldn't have passed up this opportunity to update our DG interconnection rules, and we shouldn't pretend that these issues will just conveniently go away.

As for dealing with the "larger challenge" of DG economics in rate cases, unfortunately the Commission's recent efforts in that regard come up short.³ So far, the Commission's treatment of DG in rate cases has consisted mostly of limiting net metering tariffs to 20 kilowatt facilities and modifying net excess avoided cost rates under net metering tariffs to average locational marginal pricing. It has hardly been an in-depth look at the economic and policy implications of DG, and the Commission's preferred approach to date appears headed for ultimate resolution in the courts.⁴

The reality is that we have no overarching regulatory policy on DG in this state. Programs start, then are quickly halted. DG rate designs swing back and forth nearly every year. And the Commission's preference for addressing DG piecemeal, in individual rate cases, has already become prone to court challenge. We shouldn't be deferring these regulatory policy decisions to judges. Whatever the policy preference is on DG, we ought to articulate it,

² See *Order* in this docket at 1-2.

³ See *id.* at 2.

⁴ See, e.g., RENEW Wisconsin v. PSC of Wisconsin, Dane County Circuit Court, Case No. 13-CV-0851.

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eliminate the indecision and uncertainty, and give the Wisconsin DG business environment some clear signals. We should have opened a rulemaking and at least joined the discussion on this important issue.

I respectfully dissent.

DL: 00892927